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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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SUITE 800				
WASHINGTON, DC 20037				
EXAMINER				
GILLESPIE, BENJAMIN				
ART UNIT		PAPER NUMBER		
1796				
NOTIFICATION DATE		DELIVERY MODE		
03/05/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/593,633

Applicant(s)

YAMANE ET AL.

Examiner

BENJAMIN J. GILLESPIE

Art Unit

1796

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 February 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: none.
Claim(s) objected to: none.
Claim(s) rejected: 1 and 3-9.
Claim(s) withdrawn from consideration: none.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Milton I. Cano/
Supervisory Patent Examiner, Art Unit 1796

/Benjamin J Gillespie/
Examiner, Art Unit 1796

Continuation of 11. does NOT place the application in condition for allowance because: Applicants argue the claimed invention is not rendered obvious by the prior art because although Daichou et al teach in paragraph 29 that mixtures of (i) styrene and (ii) diallylphthalate monomer can be as the crosslinker - there is no discussion of applicants' specific ratio of (i) and (ii) - or how said ratio gives enhanced coating properties such as superior heat resistance. Applicants go on to state examples 26-28 show the improvement in heat resistance when such a ratio is used.

In response, it is noted that Daichou et al fail to teach the specific ratio of (i) and (ii), however, this does not mean it would be unobvious to arrive at the claimed limitations. One of basic knowledge of polymer science would understand that as the degree of branching in a cured polymer increases - i.e. as the amount of (ii) in the curing agent increases relative to (i) - said cured polymer will exhibit less thermoplasticity and resemble more of a thermoset polymer, which are known to exhibit better heat resistance. The examiner maintains that one of ordinary skill would understand how using amounts of (ii) relative to (i) would impact the heat resistance of a polymer - this is not an unexpected property.

Still, if applicants maintain that their exemplified data shows an 'unexpected' advantage over the prior art - it should be noted that only a single ratio of (i):(ii) is disclosed in applicants' examples. The superiority must pertain to the full extent of the subject matter being claimed. In re Ackermann, 170 USPQ 340; In re Chupp 2 USPQ2d 1437, 1440; In re Murch, 175 USPQ 89; Ex Parte A, 17 USPQ2d 1719. Accordingly, it has been held that to overcome a case of prima facie obviousness, a claim must be commensurate in scope with any showing of unexpected results. In re Greenfield, 197 USPQ 227. Therefore, applicants' examples still fail to overcome the current prima facie case of obviousness because said examples are not commensurate in scope with the breadth of claim 1. There is no way to determine if applicants' alleged unexpected result would also be obtained when using every ratio of (i):(ii) allowed by claim 1.